

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,421

IN THE MATTER OF:

Served March 3, 2015

Application of ELIAS ZELEKE for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2014-019

This matter is before the Commission on applicant's request for a refund of a \$250 application filing fee.

I. BACKGROUND

Applicant initially applied for a certificate of authority in 2013. The application was approved on June 21, 2013, in Case No. AP-2013-161, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff within 180 days,¹ as is required of all such applicants. Applicant failed to produce all documents and his vehicle within the 180-day period, thereby voiding the Commission's approval as of December 19, 2013.²

Applicant reapplied in this proceeding in January 2014, and the application was approved in Order No. 14,561, served February 12, 2014, subject to the same conditions of issuance. Applicant timely satisfied those conditions and Certificate No. 2231 was issued on June 9, 2014.

By request filed the same day as the application in this proceeding, applicant seeks a refund of "the \$250 fee". Which fee, the one paid in 2013 or the one paid in 2014, is not specified. The request is supported by the following statement: "Due to an emergency, I had to go out of the country and that was at the same time around December 19th, 2013, I had a notification about the certificate."

II. ANALYSIS

Regulation No. 67-01 provides that a \$250 fee "shall be paid as indicated at the time of filing" an application to obtain a certificate of authority authorizing irregular route operations. Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause."

It has been the policy of this Commission to deny requests for refunds of application fees once an application is accepted for

¹ See *In re Elias Zeleke*, No. AP-13-161, Order No. 14,031 (June 21, 2013) (conditionally granting Certificate No. 2231).

² See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

filing, even if the application is later withdrawn or dismissed.³ Although it was for many years the policy of this Commission to refund half the filing fee when an application was rejected,⁴ the half-fee refund policy was eliminated in 2013,⁵ making filing fees essentially non-refundable today. There is good reason for that.

The filing of an application for a certificate of authority necessitates an expenditure by the Commission of resources necessary to process that application. Filing fees help defray a portion of the cost of the Commission's operating expenses, the remainder of which is borne by the taxpayers of the Compact signatories. The Commission's fee schedule, adopted through notice-and-comment rulemaking,⁶ effects an allocation of the administrative expenses of the Commission between carriers subject to WMATC regulation and other filers, on the one hand, and taxpayers on the other. Excusing the payment of filing fees based on the individualized circumstances faced by hundreds of filers not only would upset the filer/taxpayer balance struck by the Commission's fee schedule, it would quickly prove administratively unworkable.

Applicant's situation is neither unique nor meritorious. Many applicants find they have run out of time to satisfy the conditions of a conditional grant within the generous 180-day period established in Regulation No. 66. The Commission's fee schedule places that risk on the shoulders of applicants, and that is where we shall leave it.

Accordingly, applicant's request for a filing-fee refund is denied.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

³ See *In re G & M Limos and Bus Servs. Inc., t/a G & M Limo Servs.*, No. AP-09-124, Order No. 12,283 (Jan. 14, 2010) (denying request for refund of application filing fee); *In re Barney Neighborhood House and Social and Indus. Settlement, t/a Barney Neighborhood House*, No. AP-08-151, Order No. 11,679 (Nov. 12, 2008) (same); *In re Napoleon Woldeyohannes, t/a Napoleon Transp. Serv.*, No. AP-08-002, Order No. 11,241 (Mar. 31, 2008) (same).

⁴ *In re Fee Schedule*, No. MP-91-05, Order No. 3601 (Jan. 17, 1991).

⁵ *In re Rulemaking to Amend Rules of Prac. & Proc. and Regs., Reg. No. 67-01, Fees*, No. MP-13-036, Order No. 13,808 (Mar. 15, 2013).

⁶ *In re Rulemaking to Amend Rules of Prac. & Proc. and Regs., Reg. No. 60, Reports, and Reg. No. 67, Fees*, No. MP-05-169, Order No. 9208 (Dec. 22, 2005), as amended by Order No. 13,808.